

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

SAMUEL TEPPER, )  
 )  
Plaintiff, ) CASE NO. 4:21 cv 03033  
 )  
v. ) MOTION TO AMEND  
 )  
TALENT PLUS, INC., )  
 )  
Defendant. )

COMES NOW the Plaintiff, Samuel Tepper, and moves the court for an order allowing him to Amend his Complaint pursuant to FRCP 15(a)(2) and NE Civ. R. 15 and in accordance with the proposed Unsigned Amended Complaint being filed herewith.

In support of the motion, Plaintiff's would note the following:

1. The Defendant moved to dismiss the Complaint of the Plaintiff in early 2021.
2. The parties briefed the Motion to Dismiss, the Defendant's Reply Brief in April 2021. (Doc. 18).
3. The Court ruled on the Motion to Dismiss, dismissing the Plaintiff's Third Cause of Action on June 22, 2021. (Doc. 19).
4. The parties proceeded with discovery.
5. Written discovery was propounded upon the Defendant, and the Defendant objected to portions of the discovery related to Guiseff's PhD, asserting that claims related to that had been dismissed.
6. The Plaintiff attempted to schedule depositions with Defendant counsel. No dates had been proposed by Defendant counsel in response.
7. The Plaintiff maintained that the PhD issue had not been dismissed from the Plaintiff's Fourth Cause of Action and therefore was relevant and subject to discovery requests.
8. The parties discussed the discovery dispute, and sought a conference with the Court as required by local rule prior to the filing of a motion to compel.
9. A telephonic conference was held wherein a Motion for Clarification was suggested as an avenue to address the issue prior to a Motion to Compel.
10. The parties further discussed deposition scheduling and agreed that staying the depositions pending resolution of the Motion for Clarification would be prudent so as to not exceed the necessary scope of the Plaintiff's claims.
11. The parties agreed to a stay of progression deadlines, particularly the deposition deadline pending the order on the Motion for Clarification.
12. The Court ruled on the Motion for Clarification on October 25, 2022. (Doc. 45).

13. The Court's ruling indicated that absent any amendment, the PhD issue was not properly included as part of the Plaintiff's Fourth Cause of Action.
14. This was the first the Plaintiff was aware the Court did not believe it even to be part of the Fourth Cause of Action.
15. The Plaintiff moves to file the Amended Complaint to include the PhD issue in the Fourth Cause of Action.
16. The Parties briefed the PhD issue as it relates to the Fourth Cause of Action in early 2021. (Doc. 13) and (Doc. 18) therefore there is no prejudice to the Defendant in allowing the Plaintiff to properly bring it before the Court. A motion to dismiss can be filed to address any legal arguments related to the sufficiency of the pleading and/or claim.

SAMUEL TEPPER, Plaintiff,

By: /s/ Abby Osborn

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**CERTIFICATE OF SERVICE**

I hereby certify that on November 4 2022, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Brian D. Moore  
George E. Martin III  
Baird Holm LLP  
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Omaha, Nebraska 68102-2068

/s/ Abby Osborn

Abby Osborn